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Cases on International Law (Book Review)

Maurice Finkelstein

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CASES ON INTERNATIONAL LAW. By James Brown Scott and Walter H. E. Jaeger. St. Paul: West Publishing Co., 1937, pp. lxix, 1062.

American lawyers, accustomed to the baffling absence of consistent principles in constitutional law, are not over-awed by the vagaries of international jurisprudence. They are more impressed by the absence of a co-ordinating factor—of final authority to settle all disputed points—than by the frequent variations in particular instances from rule and principle. The struggle which has been going on in modern history to bring nations into an orbit of legally propelled motion has, of course, found expression in the great effort to state at least tentative principles of international law. That such principles are capable of statement is definitely established by the frequency which, since Grotius, writers have been able to translate moral philosophy to legal precepts involving the conduct of civilized societies. That the sum total has not been effective in preventing resort to armed conflict for the settlement of disputes is the result of the character of our economic life rather than the absence of juristic material upon which judgments can be based.

A case book on international law seems to be a compilation of instances in which reasoned judgments have obtained practical effect. It cannot, at the present state of history, lay claim to go further except in a very limited sphere.

It is for this reason that case books on international law have in general limited themselves to problems arising between nations in the intervals between their wars. Here is a field in which a degree of predictability equal to that of almost any branch of private law can often be found. Problems involved in determination of status, territorial jurisdiction, the high seas and legal immunities are the subject of well-defined principles of international law developed during almost a century of decisions by judicial and other tribunals. These form the basis of material presented for student class room discussion. The more vital and contentious aspects of international relations, involving the effort to deal with the inner strivings of great peoples, do not lend themselves to the case-book method.

This volume is an excellent illustration of what has now become the traditional case book on international law. The leading decisions are reported and interesting footnotes are appended throughout. A number of important decisions by the Permanent Court of International Justice are a feature of this book and supply an opening for consideration of the problems of international law in a manner more familiar to American law students. The multiplication of situations in which the World Court can be effective cannot fail to have a wholesome effect upon the progress of international law. There are numerous forces at work in the world in the direction of the ultimate regulation of the society of nations by law. Among them international law is important and the creation of the World Court and its adjudications, however feeble in the larger aspect of our current international law, are at least manifestations of the existence and quality of these forces. Those of us who have abiding faith in human perfectibility will welcome the efforts of these editors and their numerous co-workers in the field of international justice as one of the few tangible things that can be done to advance the day of social justice among nations.

MAURICE FINKELSTEIN.*

* Professor of Law, St. John's University School of Law.